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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,842	04/13/2001	Joseph D. Schroeder	03192- P0001B GSW	8394

24126 7590 12/18/2002

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EXAMINER

LEVY, NEIL S

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant

Examiner

Group Art Unit

09 839842 JCHROVER et al
MELCey 1616 12

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 11/6/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-40 is/are pending in the application.
- Of the above claim(s) 1-35 is/are withdrawn from consideration.
- ☐ Claim(s) 36-40 is/are allowed.
- ☒ Claim(s) 36-40 is/are rejected.
- ☐ Claim(s) 1-40 is/are objected to.
- ☒ Claim(s) 1-40 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Applicant's election without traverse of Group VII in Paper No. 11 is acknowledged.

Claims 1-35 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 11.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 36-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 36 is to a matrix, to which is complexed or bound, one can see the matrix as multiple polymers, as opposed to a single polymeric molecule, it is unclear which meaning is intended to establish metes and bounds of the claim, please remove parenthesis from claim 37; claims are not to incorporate parentheses.

There are no clear means for binding/ complexing, as no functional groups are evident, on for example PVC, Polypropylene.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 36-40 are rejected under 35 U.S.C. 102(b) as being anticipated by
Creasy et al WO 84/01102.

The invention is clearly anticipated. Polyurethane, the instant claim 36 synthetic organic polymer matrix complexed with a non-leaching charged antimicrobial side chain, is shown complexed with PVP and an antibacterial agent (page 2, summary). Other polymeric matrixes so complexed are at Page 3, and include the instant claim 37 polyethylene polypropylene and poly carbon ~~ates~~. Antimicrobials (P.5) include hexachlorophene.

Claims 36-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Sawan et al 5817325.

Claim 36: See col. 3, lines 25-44: biguamide polymer matrixes, to which are bound or complexed non Leachable metals (lines 45-51). *The biguamide is a* Straight chain (claim 38) and positively charged side chain (claim 40) of a benzalkonuim halide compound (claim 39), as shown at col. 8, line 39+. The polymers to which the biguamide is attached (col. 8, lines 41-47) include polypropylene, polyethylene polyethyleneterphtalate, etc, (col. 7, lines 51-57), of instant claim 37.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (703)308-2412. The examiner can normally be reached on Tuesday through Friday 7 AM to 5:30 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on (703) 308-4628. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 872-9307 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Levy/LR
December 16, 2002

A handwritten signature in black ink, appearing to read "Neil S. Levy". The signature is fluid and cursive, with the first name "Neil" being more prominent than the last name "Levy".

NEIL S. LEVY
PRIMARY EXAMINER